HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.25430 OF 2006

Between:

P.Ganga Lakshmi

. . .Petitioner

AND

The Commissioner,
Municipal Corporation of Hyderabad and others

. . .Respondents

: ORDER :

Counsel for the Petitioner : Shri Ch.Srinivasa Murthy

6th December, 2006

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PER G.S.SINGHVI, CJ

This is a petition for issue of a direction to respondent Nos.1 to 3 to remove the alleged encroachment made by respondent No.4 – Hindu Public School on the land of children's park located in Town Survey Nos.1003 to 1010 situated at Industrial Housing Colony, Sanathnagar, Hyderabad.

The petitioner claims to be a resident of Industrial Housing Colony, Sanathnagar. Her grievance is that despite order dated 22-12-1997 passed by the Special Court constituted under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1983 and the representations made by the residents, respondent Nos.1 to 3 have failed to remove the encroachments made by respondent No.4 on the land earmarked for children's park.

Learned counsel for the petitioner argued that the official respondents have failed to perform their duties to remove the encroachment made by respondent No.4 on the land earmarked for children's park and, therefore, a writ of mandamus be issued directing them to take active steps for removing the encroachment. He submitted that report – Annexure Ex.P2 submitted by Commissioner and Special Officer, Municipal Corporation of Hyderabad before the Land Grabbing Court was incorrect and misleading, and, therefore, the same should be ignored and the official respondents be ordained to remove the encroachment made by respondent No.4.

We have considered the submissions of the learned counsel, but

have not felt persuaded to entertain the prayer made by his client because,

i) the petitioner has not produced any tangible evidence to show that respondent No.4 has encroached on the land earmarked for children's park. She has neither given the particulars of encroachment nor indicated the period when such encroachment is said to have been made;

ii) in the last nine years, the petitioner is not shown to have made any representation to the authorities of the Municipal Corporation of Hyderabad except one dated 11-5-2005 to highlight the alleged encroachment made by respondent No.4 and, therefore, the writ petition is liable to be treated as belated, and

iii) an effective alternative remedy is available to the petitioner by filing civil suit, and there is no extraordinary reason for making a departure from the settled law that the High Court will not entertain writ petition under Article 226 of the Constitution of India if an effective alternative remedy is available to the petitioner.

In the result, the writ petition is dismissed. However, liberty is given to the petitioner to avail the remedy by filing civil suit.

As a sequel to dismissal of the writ petition, WPMP.No.32566 of 2006 filed by the petitioner for interim relief is also dismissed.

G.S.SINGHVI, CJ

C.V.NAGARJUNA REDDY, J

Date: 06.12.2006

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